

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF MARICOPA
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5 IN RE THE GENERAL ADJUDICATION) No. W-1 (Salt)
6 OF ALL RIGHTS TO USE WATER IN THE) No. W-2 (Verde)
7 GILA RIVER SYSTEM AND SOURCE.) No. W-3 (Upper Gila)
8) No. W-4 (San Pedro)
9)
10) CONTESTED CASE NO. W1-208
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12) JUDGMENT AND DECREE
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14 The Court has considered the Tohono O'odham Settlement Agreement restated from
15 the Agreement dated April 30, 2003 and revised to eliminate any conflicts with Public Law
16 108-451, 118 Stat. 3478, and executed by all parties thereto on or before June 12, 2006,
17 which permanently resolves the water rights claims of the Tohono O'odham Nation
18 ("Nation"), individual Indian trust allotment landowners located within San Xavier Indian
19 Reservation ("Allottees") and the United States on behalf of the Nation and the Allottees to
20 that portion of the Gila River System and Source within the Tucson Management Area and
21 the Stipulation filed with this Court on _____, 2006. A copy of the Tohono
22 O'odham Settlement Agreement is attached as Exhibit A to the Stipulation of Parties to the
23 Tohono O'odham Settlement Agreement and Request for Entry of Judgment and Decree
24 ("Stipulation").

25 This Judgment and Decree will only become effective and enforceable if and when
26 the United States Secretary of the Interior publishes in the Federal Register a notice of
27 completion of all actions necessary to make the settlement effective, as required by Section
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615366.03

1 302(b) of the Arizona Water Settlements Act of 2004, Public Law 108-451, 118 Stat. 3478.
2 The parties are directed to file a notice with the Court upon such publication.

3 NOW, THEREFORE, it is hereby adjudged and decreed effective as of the
4 publication of the Federal Register notice referred to above as follows:

5 1. The capitalized terms used in this Judgment and Decree shall be defined as
6 stated in the Tohono O'odham Settlement Agreement.

7 2. The Stipulation is hereby approved in its entirety.

8 3. The Tohono O'odham Settlement Agreement is hereby approved and
9 incorporated herein in its entirety.

10 4. Subject to the terms of paragraph 4 of the Tohono O'odham Settlement
11 Agreement, the Nation and the Allottees shall have rights to a total of 79,200 acre-feet per
12 year of water within the Tucson Management Area, which shall be held in trust by the
13 United States on behalf of the Nation and the Allottees.

14 5. Included within the 79,200 acre-feet is 66,000 acre-feet per year of CAP
15 water of which 37,800 acre-feet per year has a priority of CAP Indian Priority Water and
16 28,200 acre-feet per year has a priority of CAP NIA Priority Water.

17 6. Subject to the terms of paragraph 8 of the Tohono O'odham Settlement
18 Agreement and included within the 79,200 acre-feet per year, the Nation has a right to
19 withdraw 13,200 acre-feet per year from non-exempt wells on the Nation's Reservation
20 within the Tucson Management Area.

21 7. The Nation may use the water provided in the Tohono O'odham Settlement
22 Agreement for any use and at any location within the Nation's Reservation.

23 8. Except as provided in subparagraph 4.4 of the Tohono O'odham Settlement
24 Agreement, none of the water that is the subject of the Tohono O'odham Settlement
25 Agreement may be leased, exchanged, transferred or in any way used off the Reservation.

26 9. In exchange for the benefits realized under the Tohono O'odham Settlement
27 Agreement and as authorized by the Act, the Nation has waived and released claims
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1 enumerated in paragraph 15.1 of the Tohono O'odham Settlement Agreement, certain
2 Allottees have waived and released claims as defined and enumerated in paragraph 15.2 of
3 the Tohono O'odham Settlement Agreement and the United States on behalf of the Nation
4 and the Allottees has waived and released claims enumerated in paragraph 15.3 of the
5 Tohono O'odham Settlement Agreement. The waivers and releases are effective on the
6 Enforceability Date.

7 10. The Water Rights and other benefits granted, confirmed or recognized to or
8 for the Nation, the Allottees and the United States on behalf of the Nation and the Allottees
9 by the Tohono O'odham Settlement Agreement and the Act shall be in replacement of, in
10 substitution for, and in full satisfaction of all claims for Water Rights and Injuries to Water
11 Rights by the Nation, the Allottees and the United States on behalf of the Nation and the
12 Allottees in the Tucson Management Area. Except as provided in Paragraph 12 of this
13 Stipulation, the claims of the Nation, the Allottees and the United States on behalf of the
14 Nation and the Allottees to water of the Gila River System and Source within the Tucson
15 Management Area are fully, finally and permanently adjudicated by this Judgment and
16 Decree.

17 11. Nothing in this Judgment and Decree or the Settlement Agreement shall be
18 construed to quantify or otherwise affect the water rights or entitlements to water of any
19 Arizona Indian tribe, band or community, or the United States on their behalf, other than
20 the Nation and the United States acting on behalf of the Nation.

21 12. Nothing in the Tohono O'odham Settlement Agreement shall affect the right
22 of any party, other than the Nation and the United States, to assert any priority date or
23 quantity of water for water rights claimed by such party in the Gila River Adjudication or
24 other court of competent jurisdiction.

25 13. This Court retains jurisdiction over this matter for enforcement of this
26 Judgment and Decree and the Tohono O'odham Settlement Agreement, including the entry
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1 of injunctions, restraining orders or other remedies under law or equity and to carry out the
2 provisions of sections 312(d) and 312(h) of the Act.

3 DATED this ____ day of _____, 200__.

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7 Judge of the Superior Court
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